IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1413 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

H F MIR - Respondent(s)

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Appearance :
MR HARDIK C RAWAL for Petitioner No(s).: 1.
MR MUKESH H RATHOD for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 28/06/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 1st June, 1998 passed by the Industrial Tribunal in Reference [I.T.] No. 385 of 1990 whereby the Tribunal has set aside the punishment imposed by the petitioner Corporation and substituted the penalty into stoppage of two yearly increments with permanent effect and has further directed to pay difference of salary within a period of 60 days from the date of publication of the award.

2. The short facts of the case are that the respondent workman was working as a conductor with the petitioner Corporation. On 22nd April, 1988, while the respondent workman was on duty, the bus was checked by the checking squad of the petitioner Corporation. The checking squad found certain irregularities in the issuance of tickets and in the collection of the fares from the passengers. Therefore, departmental inquiry was initiated against the respondent workman. Since the charges against the workman were proved, he was placed in the minimum pay scale of the conductor.

3. Being aggrieved by the said action of the petitioner Corporation, the respondent workman raised an industrial dispute which was ultimately referred to the Industrial Tribunal, for adjudication. The Industrial Tribunal, after appreciating the materials placed before it, allowed the Reference with the aforesaid directions. Hence, this petition.

4. Mr. Hardik Raval learned advocate for the petitioner Corporation has contended that the Industrial Tribunal has erred in not taking into consideration the past record of the respondent workman. He has submitted that the there are 48 identical defaults committed by the respondent workman, for which appropriate penalties were imposed and inspite of that the respondent workman has

continued with his misconduct. He has, therefore, submitted that the Industrial Tribunal has erred in upholding the order of dismissal passed by the petitioner Corporation.

5. I have heard the learned advocates for the respective parties and have perused the materials placed on record. It is not in dispute that the past record of the respondent workman is not good. The respondent workman had committed several financial irregularities and in the departmental inquiry charges levelled against the respondent workman were also proved. However, the Industrial Tribunal has substituted the penalty of dismissal into stoppage of two yearly increments with future effect. But considering the seriousness of the misconduct committed by the respondent workman and keeping in mind his past record, the quantum of punishment imposed by the Industrial Tribunal appears to be on the lighter side.

6. In above view of the matter, the impugned order of the Industrial Tribunal, Ahmedabad dated 1st June, 1988 passed in Reference [I.T.] No. 385 of 1990 is modified to the extent that the penalty of stoppage of two increments with future effect is modified by imposing a penalty of stoppage of four increments with future effect. The petitioner Corporation is directed to pay the difference of salary within a period of six months from the date of the receipt of writ of this order. The petition stands disposed

of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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